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Kent H. Roberts

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

KENT H. ROBERTS,

Defendant.

Case No. C 07-04580 MHP

**DECLARATION OF EINAT SANDMAN
CLARKE IN SUPPORT OF DEFENDANT
KENT ROBERTS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL PORTIONS
OF DEFENDANT'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS FROM
THIRD PARTY HOWREY LLP AND
EXHIBITS D & O TO THE DECLARATION
OF WILLIAM S. FREEMAN IN SUPPORT
THEREOF**

Judge: Hon. Marilyn H. Patel

I, Einat Sandman Clarke, declare as follows:

1. I am an attorney licensed to practice law in the State of California and an associate at the law firm of Cooley Godward Kronish LLP, counsel of record for defendant Kent Roberts ("Defendant"). The following facts are based on personal knowledge or on information and belief based upon my review of documents and sources I believe to be trustworthy.

2. The Declaration of William S. Freeman in Support of Defendant's Motion to Compel Production of Documents from Third Party Howrey LLP ("Freeman Declaration")

1 contains documents that have been designated confidential subject to a Protective Order (“*Weiss*
2 Protective Order”) entered in the arbitration proceeding of *Kevin Weiss v. McAfee, Inc.*, American
3 Arbitration Association, No. 71 166 00038 07 (“*Weiss Arbitration*”).

4 3. Attached hereto as Exhibit A is a true and correct copy of the *Weiss* Protective
5 Order.

6 4. Defendant received the documents subject to the *Weiss* Protective Order from the
7 government in the course of discovery, and has been informed by counsel for Kevin Weiss and
8 McAfee, Inc. (“McAfee”) that the documents are sealable. Attached hereto as Exhibit B is a
9 correspondence between Defendant’s counsel and counsel for Kevin Weiss regarding the
10 documents that Defendant has moved to file under seal.

11 5. Defendant’s counsel has advised counsel for both parties in the *Weiss* Arbitration
12 of the filing of Defendant’s Motion to Compel Production of Documents from Third Party
13 Howrey LLP, and that the Freeman Declaration contains documents that have been designated
14 confidential under the *Weiss* Protective Order. Defendant’s counsel referred both parties to their
15 obligations regarding the sealed documents under Civil Local Rule 79-5. Courtesy copies of the
16 Motion to Compel and supporting documents will be sent to counsel for Kevin Weiss and
17 McAfee.

18 6. Exhibit D to the Freeman Declaration contains excerpts from the Deposition of
19 Transcript of Robert E. Gooding, Jr., taken in the course of the *Weiss* Arbitration.

20 7. Exhibit O to the Freeman Declaration contains excerpts from the Deposition of
21 Transcript of David T. Bartels, taken in the course of the *Weiss* Arbitration.

22 8. There are portions of Defendant’s Motion to Compel Production of Documents
23 from Third Party Howrey LLP that refer to information designated confidential under the *Weiss*
24 Protective Order. Pursuant to Local Rule 79-5(c) and (d), a public version of the Motion to
25 Compel has been electronically filed with the Court.

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1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 February 15, 2008, at Palo Alto, California.

3 /s/

4 Einat Sandman Clarke